IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 11363 of 2004

Between:

Sagi Venkateswar Rao, S/o. Srinivas Rao
R/o. Mulkalla Village, Mancherial Mandal, Adilabad District.

..... PETITIONER

AND

1 The Mandal Revenue Officer, Mancherial Mandal, Adilabad Dist.
2 The Revenue Divisional Officer, Mancherial Division, Adilabad Dist.
3 Ugge Guruvaiah S/o. Sambaiah, Mulkalla Village Mancherial Mandal,

Adilabad Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the order of the 1st respondent in File No. ROR/X /Mulkalla/4/98, dt. 29.8.1998 and the order of the 2nd respondent confirming the same in Rc.No.G/1688/2003 dt. 11.6.2004 as illegal, arbitrary and violative of the provisions of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 and the Rules framed thereunder and consequently set-aside the proceedings of the 1st respondent dt. 29.8.19098 and the order of the 2nd respondent dt. 11.6.2004.

Counsel for the Petitioner: MR.P.ROY REDDY

Counsel for the Respondents 1 and 2 : GP FOR REVENUE

Counsel for the Respondent No.3 : Sri P.GIRI KRISHNA

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11363 OF 2004

ORDER:

The petitioner impugnes the order of the second respondent dated 11.06.2004 confirming the orders of the first respondent dated 29.08.1998 whereby and whereunder the unregistered sale transactions in favour of the third respondent by the father of the petitioner was regularized under Section 5A of the A.P.Rights in Land and Pattadar Passbooks Act, 1971 (for short, the Act) by the first respondent. The case of the petitioner in a nutshell is that after the death of his father in 1993, he has become absolute owner of agricultural land admeasuring Ac.1.09 guntas in Survey No.124 of Mulkalla village, that the third respondent fabricated an unregistered sale deed on a white paper allegedly executed by the father of the petitioner and approached the first respondent under Section 5A for regularization, that by order dated 29.08.1998, the first respondent regularized the sale without notice to the petitioner and that he came to know about the proceedings of the first respondent and filed appeal under Section 5B of the Act before the second respondent, who dismissed the appeal without considering various grounds urged regarding the fabrication and fraud.

In the counter affidavit filed by the third respondent while denying the allegations made by the petitioner, it is stated that the father of the petitioner late Sagi Srinivasa Rao sold agricultural land in question to the third respondent for a consideration of Rs.1,500/- (Rupees one thousand five hundred only) duly executing simple sale deed on Rs.5/- (Rupees five only) stamped paper, that since then the

third respondent is cultivating the same for his livelihood, that he has applied the first respondent for regularization of the sale under Section 5A of the Act, that pursuant to notice, the petitioner appeared before the first respondent gave a statement admitting the sale transactions by his father, whereupon the first respondent issued proceedings regularizing the sale. The allegation of the petitioner that no notice was served by the first respondent is denied.

Learned counsel for the petitioner Sri P.Roy Reddy submits that the orders of the first respondent are nullity for violation of principles of natural justice. Secondly, he would urge that the third respondent played fraud and produced a fabricated document in relation to which the first respondent issued proceedings regularizing the sale without any jurisdiction. As per Rule 22(3) of the Rules made under the Act, issuing of notice on the vendor is mandatory, which is contravened by the first respondent. He would also submit that the second respondent – appellate authority under Section 5B of the Act failed to consider various submissions urged before him.

Learned Assistant Government Pleader for respondents 1 and 2 and the learned counsel for the third respondent opposed the writ petition. They would also urge that the petitioner has an effective alternative remedy by way of revision before the Joint Collector under Section 9 of the Act and therefore the writ petition is barred. They also contend that notice was duly issued to the petitioner by the Mandal Revenue Officer and that the petitioner gave a statement admitting the plain sale deed executed by his father. In view of the controversy regarding the issue of notice, this Court has sent for the records. The learned counsel for the petitioner was also permitted to peruse the record. After perusing the record, especially notice, which was duly served on the petitioner, he would submit that the petitioner has not received any notice purportedly issued by the office of the first respondent.

After perusing the file, it appears to this Court that the first respondent issued notice under Rule 22(3) of the Rules made under the Act to the petitioner and also recorded a statement. Nonetheless, there is a serious dispute regarding the signature appearing on the backside of the notice as well as on the statement – the counsel for the petitioner asserting the signature is not that of the petitioner and the counsel for the contesting respondents submitting contra. Therefore, this Court is not inclined to express any opinion on this question especially when the petitioner has an effective alternative remedy by way of revision before the Joint Collector, before whom he can even raise this ground. Indeed as rightly pointed out by the learned Assistant Government Pleader, the appellate authority examined the record of the Mandal Revenue Officer and came to the conclusion that the due procedure under the Act has been followed before issuing proceedings under Section 5A of the Act. Therefore, this Court is of the considered opinion that the remedy of revision is more effective and appropriate in a case of this nature. As and when such revision is filed, the Joint Collector, Adilabad District would entertain the revision and pass appropriate orders within a period of four weeks from the date of its presentation. There shall be no order as to costs.

The writ petition is accordingly disposed of.

(V.V.S.RAO,J)

08.11.2004.

pln

To

1. The Mandal Revenue Officer, Mancherial Mandal, Adilabad District.
2. The Revenue Divisional Officer, Mancherial Division, Adilabad District.
3. 2 CCs to the G.P. for Revenue, High Court Buildings, Hyderabad (OUT).
4. 2 CD copies.